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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/879,151

06/13/2001

Anders Stenberg

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4114

7590

12/05/2006

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,151

Applicant(s)

STENBERG, ANDERS

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 17-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 18-25, 27-41 and 43 is/are rejected.
- 7) ☒ Claim(s) 17, 26 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/31/06
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1 September 2004 have been fully considered but they are not persuasive.

In response to the applicant's argument that the strip 72 of Cammarota is actually a simulated fly opening, it is noted that the graphic labeled 72 comprises a strip having a different color than the remainder of the backsheet and therefore fulfills the limitations of the claim.

In response to applicant's argument that Cammarota discloses no correlation between the strip and the wetness indicator, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The strip 72 of Cammarota is located proximal the wetness indicator 66, a user must merely look in the vicinity of the strip to locate the wetness indicator, and therefore is fully capable of facilitating location of the wetness indicator.

In response to the applicant's argument that Cammarota fails to disclose the strip being a separate strip of material from the backsheet, it is noted that the strip 72 is located on a separate piece of material 112 from the backsheet 110.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3761

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 18-25, 27-41, and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Cammarota et al. (6,307,119).

With respect to claim 1, Cammarota discloses an absorbent article comprising a liquid pervious topsheet 42, a liquid impervious backsheet 40, and an absorbent body 44. The liquid impervious backsheet 40 comprises a strip part 72, as shown in figure 1, the strip part 72 being integral and having a different color than the backsheet 40. A wetness indicator 66 is arranged on an inside of the backsheet 40, as disclosed in column 16, lines 29-31, and is applied adjacent the strip part 72, as shown in figure 1. Since the wetness indicator 66 is located adjacent the strip part 72, the strip part 72 is fully capable of facilitating location of the wetness indicator 66 due to their proximity to one another.

With respect to claim 2, Cammarota discloses an embodiment having the strip part 72 located on a separate strip of material 112 fastened on the inside of the backsheet 110, as shown in figure 9B. A plurality of wetness indicators 66 are arranged on the inside of the backsheet 110 and are visible through the backsheet 110, as disclosed in column 21, lines 41-48, and are applied adjacent the strip part 72, as shown in figure 1. Since the wetness indicator 66 is located adjacent the strip part 72,

Art Unit: 3761

the strip part 72 is fully capable of facilitating location of the wetness indicator 66 due to their proximity to one another.

With respect to claim 3, the wetness indicator 66 is applied adjacent the strip part 72 in an area of the backsheet 110 not covered by the strip part 72, as shown in figure 1.

With respect to claim 3, the strip 72 is fully capable of indicating the size or total absorption capacity of the article.

With respect to claims 5, 19, 28, and 35, the strip 72 extends at least an essential part of the length of the article, as shown in figure 1.

With respect to claims 6, 20, 29, and 36, the strip 72 has a dimension in the transverse direction of the article, and the article is fully capable of being folded along the strip 72.

With respect to claims 7, 10, 11, 21, 24, 25, 30, 33, 34, 37, 40, and 41, the wetness indicator 66 has a width of between about 1.5 cm and 3 cm, as disclosed in column 11, lines 25-27. The strip 72 has a width of approximately the size of the wetness indicator 66, as shown in figure 1, and therefore has a width within the range of 1 cm to 8 cm.

With respect to claims 8, 22, 31, and 38, the article further comprises printed symbols "big boy" or "big girl," as disclosed in column 7, lines 13-14, which are capable of indicating the size or type of the product.

With respect to claims 9, 23, 32 and 39, the article is a diaper or incontinence guard.

With respect to claims 18, 27, and 43, the wetness indicator 66 is disposed on the remaining part of the backsheet 40.

Allowable Subject Matter

Claims 17, 26, and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the wetness indicator being disposed on the strip. The closest prior art of record, Cammarota, discloses the strip 72 being a separate element from the wetness indicator 66, as shown in figure 1, and does not suggest combination of the strip 72 and wetness indicator 66. Therefore, Cammarota does not disclose or fairly suggest the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3761

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CWA
cla
November 20, 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

